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In re Application of :
Steven Roy Lipscomb *et al* : DECISION ON PETITION
Application No. 10/617,477 :
Filed: July 11, 2003 :
Attorney Docket No. 320400-00004 :

This is a decision on the petition to make special filed on August 13, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The \$130.00 petition fee has allegedly been submitted in the form of a check, but Office records do not confirm this. The petition fee will be charged to Deposit Account No. 50-1214, and if ultimately there is a duplicate charge, petitioners may request a refund.

The petition is dismissed.


A review of the petition shows that petitioners allege that a declaration has been submitted in support of the allegation that an actual infringement exists warranting grant of the petition. However, the file does not appear to contain such declaration. Absent the declaration, the petition lacks the required statements (A)-(C) set forth in MPEP § 708.02(II).

Petitioners may file a renewed petition, perfecting the originally filed petition, without additional fee. Any renewed petition must be filed within two months of the date of this Decision. See 37 CFR 1.181(f).

It is noted that an Office action was promulgated on May 19, 2003. Petitioners are reminded that the filing of the instant petition or any renewed petition will not stay the period for filing a reply to the outstanding Office action. 37 CFR 1.181(f).

The application is being forwarded to the Head Supervisory Applications Examiner to charge the \$130.00 petition fee to Deposit Account No. 50-1214.

PETITION DISMISSED.


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